

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

Jill Weinberg,	:	
	:	Civil Action No.: <u>4:14-cv-267</u>
	:	
Plaintiff,	:	
v.	:	
	:	
PHH Mortgage,	:	COMPLAINT
	:	JURY
Defendant.	:	
	:	
	:	

For this Complaint, Plaintiff, Jill Weinberg, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the "TCPA").
2. Venue is proper in this District pursuant to 28 U.S.C. § 1331(b), in that Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

3. Plaintiff, Jill Weinberg ("Plaintiff"), is an adult individual residing in Plano, Texas, and is a "person" as defined by 47 U.S.C.A. § 153(39).
4. Defendant PHH Mortgage ("PHH"), is a Nevada business entity with an address of 1 Mortgage Way, Mount Laurel, New Jersey 08054, and is a "person" as defined by 47 U.S.C.A. § 153(39).

FACTS

5. In or around December 2013, PHH called Plaintiff's cellular telephone, 214-xxx-6934, using an automatic telephone dialing system ("ATDS") and/or by using an artificial or prerecorded voice.

6. When Plaintiff answered the calls, she heard a prerecorded message indicating that the call was for "Renee Shell" regarding her mortgage.

7. Plaintiff does not have an account with PHH and does not have a business relationship with PHH.

8. Plaintiff never provided her cellular telephone number to PHH and never provided her consent to PHH to be contacted on her cellular telephone.

9. The calls from PHH to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

COUNT I
VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –
47 U.S.C. § 227, et seq.

10. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

11. Plaintiff never provided her cellular telephone number to PHH and never provided her consent to be contacted on her cellular telephone.

12. Without prior consent, PHH contacted Plaintiff by means of automatic telephone calls or prerecorded messages at a cellular telephone in violation of 47 U.S.C. § 227(b)(1)(A)(iii).

13. Upon information and belief, PHH's telephone system has the capacity to store numbers in a random and sequential manner.

14. As a result of each call made in negligent violation of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

15. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant:

- A. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
- B. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C);
- C. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: May 1, 2014

Respectfully submitted,

By /s/ Jenny DeFrancisco

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Attorneys for Plaintiff

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	: JURY
PHH Mortgage,	:
	:
Defendant.	:
	:
	:

CERTIFICATE OF INTERESTED PARTIES

NOW COMES Jenny DeFrancisco and hereby certifies that the following persons or entities have a financial interest in the outcome of this litigation:

Jill Weinberg, Plaintiff
Plano, Texas

Jenny DeFrancisco, Esq.

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Dated: May 1, 2014

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